

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MOSES SPARKS,

Plaintiff,

v.

Civ. 12-1022 MCA/GBW

FNU BEAIRD,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION AND DISMISSING CASE**

On October 1, 2012, Plaintiff, then an inmate at the Lea County Correctional Facility (LCCF), filed his complaint, alleging three causes of action under 42 U.S.C. § 1983 for violations of the Eighth Amendment. *Doc. 1.* On February 27, 2013, the Court dismissed the claims against two of the defendants, the Geo Group, Inc. and Warden Janecka, for failure to state a claim. *Doc. 8* at 3. It also dismissed Plaintiff's claims against Defendant Beaird in his official capacity, leaving only Plaintiff's claim against Defendant Beaird in his individual capacity. *Id.* at 2-3.

The Magistrate Judge filed his Proposed Findings and Recommended Disposition (PFRD) on May 16, 2013. *Doc. 14.* He recommended dismissal of Plaintiff's action for failure to exhaust administrative remedies for the violations alleged in his complaint, as required by the Prison Litigation Reform Act (PLRA). *Id.* at 5-6. He also recommended that Plaintiff's claims be dismissed with prejudice because his informal

grievance was dismissed on timeliness grounds and therefore his failure to exhaust cannot be cured. *Id.* at 7.

Plaintiff has filed no objections to the PFRD,¹ and, upon review of the record, I concur with the Magistrate Judge's findings and recommendations.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition, *doc. 14*, is ADOPTED. Plaintiff's claims are DISMISSED with prejudice.



UNITED STATES DISTRICT JUDGE

¹ The Magistrate Judge's PFRD was returned to the Court as "undeliverable" on May 23, 2013. *Doc. 15.* The stamp on the envelope indicates that Plaintiff has been "discharged" from LCCF. *Id.* Plaintiff has not provided a new address to the Court despite his duty to do so. *See D.N.M.LR-Civ. 83.6.*